IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

WP(C).No. 26163 of 2007(M)

PETITIONER:

ABY SIMON, ST.MARY'S GRANITES,
PERUMBAVOOR.

BY ADV. SRI.ARIKKAT VIJAYAN MENON
SRI.HARISANKAR V. MENON

RESPONDENTS:
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1. COMMERCIAL TAX OFFICER, IIND CIRCLE,
PERUMBAVOOR.

2. DEPUTY COMMISSIONER (APPEALS).
DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM.

3. DEPUTY TAHSILDAR (RR),
TALUK OFFICE, KUNNATHUNADU, PERUMBAVOOR.

BY G.P. SRI. SREEKRISHNA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/08/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 26163 OF 2007

Dated this the 24th day of August, 2007

JUDGMENT

W.P. is filed apprehending recovery of sales tax due for 2003-04 and 2004-05. It is seen that petitioner has got partial relief in the first appeal vide Ext.P3 issued on 13.8.2007. According to the petitioner petitioner has a right of second appeal before the Tribunal against the said orders. Since recovery is pending, petitioner has approached this Court for appropriate relief. W.P. is accordingly disposed of granting stay against recovery of 50% of balance revised demand of tax based on order in appeal for four months from now on petitioner remitting 50% of the revised demand within one month from now. The assessing officer is directed to revise the assessment in terms of order in appeal and issue demand notice to the petitioner within one week from the date of production of a copy of this judgment. If 50% of the revised demand is paid as above and appeal filed along with receipt, there will be direction to the Tribunal to post the appeal out of turn and dispose of the same within three months from the date of filing of the appeal.

Recovery of balance 50% will be based on orders in second appeal. The assessing officer is directed to give credit for the full amount of tax paid by the petitioner based on evidence to be produced by the petitioner, and demand only balance.

(C.N.RAMACHANDRAN NAIR)
Judge